



Director-General

## **The Pros and Cons of Information Sharing**

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Opening Address of Director-General Mr. Claes Norgren

### **Check by delivery**

I am very pleased to welcome you to today's seminar on the Pros and Cons of Information Sharing. When I look around in the audience I recognize many present and former colleagues, lawyers and academics and I'm particularly happy to see that so many of you have travelled from abroad to be here with us in Stockholm today.

Transparency is a concept that has a positive value in the public debate and information sharing and cooperation between companies and their organizations is indeed often a good thing. Access to relevant information will allow companies to better plan production and marketing activities, to invest in new capacity or in R&D (Research and Development) and to price its products competitively. But in some instances, when communication turns into a detailed exchange of prices or other business-specific information, there is a serious risk that competition and consumers will be harmed. Today's presentations focus on the types of information sharing that can be used to facilitate explicit or tacit collusion and what competition authorities should look for in order to target the harmful instances of information sharing rather than the good ones.

This is the fifth edition of our Pros and Cons seminars. The first one – on the Pros and Cons of Merger Control – took place in 2002. However, the origins of the Pros and Cons seminars date back to the Competition Policy Conference on Fighting Cartels – why and how – which was held in Stockholm in September 2000.

It is therefore interesting to note that today's topic - information sharing - can partly be described as a follow-up of the Fighting Cartels conference. This is

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because information sharing is widely acknowledged to be a crucial tool for effective monitoring of cartel agreements. "Cartel bargaining and monitoring: The role of information sharing" is actually the title of today's presentation by Mrs. Levenstein and Mrs. Suslow, so there is no need for me to say more on this aspect now.

While there is a rich body of case-law explicitly outlawing information sharing as an integrated part of operating cartels, the opposite has long been true as to the second type of information sharing, that is information sharing not directly linked to any existing cartel. The one landmark case mentioned in most of the papers presented today is the Commission's UK Agricultural Tractor Registration Exchange case which was upheld by the European Court of Justice in 1998.

As to Swedish competition law, we do not have a clear-cut precedent outlawing information sharing as an infringement in itself. This may have led some market players to the erroneous conclusion that potential anti-competitive information sharing schemes are viewed less severely by Swedish courts than by the EC Courts. However, in February last year the Swedish Market Court handed down an important judgment in the "Swedish Plumbers' Trade Association" case (VVS-Installatörerna in Swedish), ordering the Swedish Plumbers' Trade Association to cease providing specific price lists.

Several of the papers to be presented today have high lightened the role played by trade associations in administrating information sharing schemes. While it has to be acknowledged that much of the information disseminated by trade associations may be beneficial to society, our concern is that there is a number of information sharing schemes around which do have anti-competitive effects. My authority is currently investigating several potential cases where information sharing between competitors may constitute an infringement of competition law.

Information sharing schemes operated by trade associations was one of the three main antitrust topics discussed at the Nordic Competition Authorities' annual meeting in Bergen last summer. It's fair to say that this issue is currently on top of my authority's agenda. In order to get a better overall understanding of the extent of certain information sharing schemes operated by trade associations we sent a questionnaire to almost 900 Swedish trade associations only three weeks ago. (This questionnaire can be downloaded from our homepage.) We hope that this survey will contribute to increased awareness of the possible anticompetitive effects that some information sharing schemes may cause.

It is widely acknowledged that analyzing the anti-competitive effects of information sharing is a complex task regarding the scope of the legal and the

economic analysis to be undertaken. Today, we will learn how to better distinguish between benign information sharing schemes and anti-competitive ones, which in my view is crucial not only for academics but even more so for any practitioner working on a given information sharing case. And we will certainly take what we learn here today back with us to be applied in our daily task of making markets work better. I'm sure that we will have an interesting and fruitful day of information sharing.

I wish you all very welcome and now give the floor to our moderator. Amelia Fletcher, the floor is yours.